

ILLINOIS POLLUTION CONTROL BOARD
February 22, 1984

SANITARY DISTRICT OF BEARDSTOWN,)
)
) Petitioner,)
)
) v.) PCB 83-225
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
) Respondent.)

OPINION AND ORDER OF THE BOARD (by W. J. Nega):

This matter comes before the Board on the petition for variance of the Sanitary District of Beardstown (SDB) filed on December 9, 1983. Variance is requested from 35 Ill. Adm. Code 312.101 in order to allow the employment of a Class 2 operator instead of a Class 1 operator during a time period not to exceed one year. On January 12, 1984, the Agency filed its Recommendation that variance be denied. Hearing was waived and none has been held.

The Petitioner owns and operates a wastewater treatment plant (WTP) in the City of Beardstown, Cass County, Illinois which is designed for a BOD and suspended solids load of 8,760 population equivalents and, according to Illinois Environmental Protection Agency (Agency) Permit #1979-AB-5706, has a design average daily flow (DAF) of 1.13 million gallons per day (gpd). (Pet. 1; Rec. 3). As a result of this DAF, the Petitioner's WTP is designated as a Group 1 facility which must have a Class 1 operator. The SDB has indicated that, because the current population of the City of Beardstown is approximately 6,300 people, the actual average daily flow through the WTP is substantially less than the 1.13 million gpd capacity and the plant has a current population load of about 6,300 persons. (Pet. 1-2).

The SDB's wastewater treatment facilities, which are operated pursuant to NPDES Permit No. IL0025135, include raw sewage pumps; comminutor; grit removal equipment, primary clarifiers; rotating biological contactors; final clarifiers; chlorination with a chlorine contact tank; storm water pumps; storm water clarifiers; sludge vacuum filter; first flush retention basin; aeration blowers; chemical feeders for line conditioning of sludge; flow meter; and a main control building with a laboratory. (Pet. 1).

The Petitioner received a Step 3 State grant, pursuant to the Anti-Pollution Bond Act of 1970, from the Agency in 1979 (Grant Project No. C170858) for the construction of additions to its WTP. The construction project began in 1979 and the upgrading of the treatment works was completed during the fall of 1981. (Pet. 2-3; Rec. 2). On January 27, 1982, the Agency adopted revised procedures for the certification of operators of wastewater treatment works which reclassified the Petitioner's WTP from a Group 2 facility requiring a Class 2 operator to a Group 1 facility requiring a certified Class 1 operator. Although the Agency sent copies of the revised rules to all registered certified operators in January of 1982, the Petitioner has asserted that the SDB and the current operator "received written notification of the classification requirements in September, 1983". (Pet. 2).

The Petitioner's present WTP operator is Mr. Elmer William Bell who was hired by the SDB on October 1, 1967 as chief plant operator. Mr. Bell received his Class 2 operator certification from the Agency in 1979 (i.e., well before the WTP was reclassified as a Group 1 facility requiring a Class 1 operator). Under the provisions of 35 Ill. Adm. Code 308.502(b), treatment works which had a properly certified operator prior to the adoption of the revised Agency rules, but which are now required to have an operator with a higher certification as a result of reclassification, are allowed 2 years from January 27, 1982 to retain an operator at the proper level of certification. (Rec. 2).

According to the Agency's Operator Certification Regulations, a Class 1 operator must have a high school education or equivalent in order to be eligible to take the Class 1 test. Although Mr. Bell has an elementary school education and 2 years of high school, Mr. Bell's experience has been deemed to satisfy the requirements concerning an "equivalent" high school education under a December, 1983 policy decision by the Agency's Operator Certification Unit. (Rec. 4).

The Petitioner has stated that Mr. Bell "will take the Agency's Class 1 wastewater treatment plant examination as soon as work conditions and personal health permits". (Pet. 3). The SDB has pointed out that, during 1983, Mr. Bell "has had to devote considerable time and effort to maintain the satisfactory operation of the wastewater treatment facilities due to problems caused by the prolonged flooding of the Illinois River at Beardstown". (Pet. 3). The problems alluded to by the Petitioner include: (1) extensive wet weather flows due to the high ground water table; and (2) sewer main failures within the City of Beardstown which have resulted in excessive amounts of sand entering the WTP (necessitating periodic draining and cleaning of the WTP's tanks). (Pet. 3-4). Additionally, Mr. Bell has had lower lumbar back surgery in October of 1983 for the removal of three vertebrae disks and will probably require further medical

treatment. Mr. Bell's current health problems, when combined with the additional work requirements brought about as a result of river flooding, have not, according to the Petitioner, allowed him adequate time to prepare for, and take, the Class 1 test. (Pet. 4).

The Petitioner has asserted that the cost of obtaining a temporary full-time Class 1 operator as an additional employee until Mr. Bell receives his Class 1 certification would be an unreasonable hardship on the SDB and its customers who ultimately must bear the cost during the current uncertain economic period in the locality. (Pet. 4). The SDB points out that, due to a substantial reduction in wages paid by the local Oscar Mayer plant (a major community employer) and the present economic downturn, it cannot afford estimated additional costs of \$20,000.00 to \$25,000.00 for one year's salary and required fringe benefit costs for a Class 1 operator. (Pet. 4).

Moreover, the Petitioner has stated that the flows experienced during low water table conditions range from 650,000 gpd to 700,000 gpd, and emphasized that the design of the recent additions to the WTP was oversized in anticipation of estimated wet weather flows, so that the 1.13 million gpd capacity is far more than needed or utilized for the current service area population. (Pet. 4-5). Thus, the Petitioner has implied that the Group 1 classification of its facility does not take this overcapacity situation into full account and that a Class 1 operator during a short interim time period is not strictly necessary in the particular extenuating circumstances of this case. (Pet. 4).

As an additional factor to be considered in its hardship claim, the Petitioner has noted that the SDB would like to receive its final State grant payment for Project No. C170858 without waiting for Mr. Bell to obtain his Class 1 certificate. (Pet. 5). In respect to this situation, the Agency has indicated that 99.6% of the current grant has been paid out, but that the grant cannot be closed out until the Petitioner resolves its operator certification problems. (Rec. 4).

The Agency acknowledged that, prior to Agency action in December, 1983, Mr. Bell was not considered to have the educational qualifications to be eligible for the Class 1 exam. The Agency noted, however, that the Petitioner did not explain why Mr. Bell did not complete his educational requirements. (Rec. 3). The Agency stated that "Mr. Bell took the exam on January 3, 1984 but did not pass". (Rec. 3).

In considering alternative methods of compliance, the Agency has indicated that the SDB presently employs another operator, Mr. Kenneth Capps, who passed his Class 2 exam on January 6, 1981 and, because he has a high school education and 10 years experience, has been eligible to take the Class 1 exam for the past two

years. (Rec. 3). Additionally, the Agency estimated that a contract operator to supervise other operators would cost approximately \$150.00 to \$200.00 a month. Thus, the Agency believes that the Petitioner's estimated cost of compliance did not take into consideration the possibility of hiring a part-time, rather than a full-time, Class 1 operator for plant supervision. (Rec. 4). Accordingly, the Agency has recommended that the Board deny the requested variance.

The Agency has acknowledged that granting a variance should have no adverse effect on the quality of treatment provided. Discharge monitoring reports for 1982 and 1983 report no BOD or TSS violations. The Agency stated that "Mr. Bell operates the treatment facility well and maintains it in good working order ... Mr. Bell is a good operator and the plant is well-run." (Rec. 4-5).

In such a situation, the Board believes that hiring an outside operator to come in on a part-time basis to supervise an already experienced operator would not be cost-effective or add to efficiency. Given the lack of any environmental injury, the small size of the City of Beardstown and its Sanitary District, the downturn in the local economy, the need for financial restraint in expenditures of public tax monies, and the desirability of closing out state grant funding, plus the fact that Mr. Bell is apparently a capable and competent operator despite his lack of a high school diploma and initial failure to pass an exam shortly after undergoing major surgery, the Board feels that Mr. Bell should be allowed adequate time to sufficiently prepare for the requisite Class 1 test.

However, the Board will require the Sanitary District of Beardstown to obtain a properly certified Class 1 operator by August 22, 1984. Both of the Petitioner's Class 2 operators will have an adequate opportunity to take the necessary Class 1 exam within the next six months. The Board notes that the Class 1 exam is given by the Agency every 2 months in Springfield (i.e., tests are currently scheduled for March 6, 1984; May 1, 1984; July 3, 1984; September 4, 1984, etc.) and every 2 alternate months in Peoria (i.e., on April 3, 1984; June 5, 1984; August 7, 1984, etc.). Moreover, the six month time period of the variance will provide the Petitioner with sufficient time and opportunity to look around for, and find, a qualified Class 1 operator who will be able to supervise wastewater treatment plant operations and work for Beardstown on a part-time, contractual basis in case the Petitioner's current operators are unable to pass the Class 1 test.

Accordingly, the Board finds that denial of variance would impose an arbitrary or unreasonable hardship upon the Petitioner and will grant the requested relief, subject to the conditions delineated in the Order.

ORDER

The Petitioner, the Sanitary District of Beardstown, is hereby granted a variance from 35 Ill. Adm. Code 312.101 in order to allow the employment of a Class 2 operator to operate its wastewater treatment facility, subject to the following conditions:

1. This variance shall expire on August 22, 1984.
2. The Petitioner's wastewater treatment plant shall continue to be operated and maintained in full compliance with the requirements of NPDES Permit No. IL 0025135 and in compliance with all applicable rules and regulations to assure the proper protection of the environment.
3. The present Class 2 operators shall take all necessary and reasonable steps to obtain the requisite Class 1 certification before the expiration date of this variance, including the submission of the necessary test application forms to the Agency and the taking of the appropriate Class 1 examinations before August 22, 1984.
4. The Petitioner shall have a properly certified Class 1 operator for its wastewater treatment plant by August 22, 1984.
5. Within 45 days of the date of this Order, the Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Division of Water Pollution Control, Compliance Assurance Section, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This 45 day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATE

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 83-225 dated February 22, 1984, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Sanitary District of Beardstown

By: Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 22nd day of February 1984 by a vote of 7-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board